

**UNITED STATES DISTRICT COURT**  
**for**  
**EASTERN DISTRICT OF NORTH CAROLINA**  
**WESTERN DIVISION**

**U.S.A. vs. Harless V. Barton, Jr.**

**Docket No. 5:09-MJ-1942-1**

**Petition for Action on Probation**

COMES NOW Debbie W. Starling, probation officer of the court, presenting a petition for modification of the Judgment and Commitment Order of Harless V. Barton, Jr., who, upon an earlier plea of guilty to Driving While Impaired (Level 1), in violation of 18 U.S.C. § 13, assimilating N.C.G.S. 20-138.1, was sentenced by the Honorable Robert B. Jones, Jr., U.S. Magistrate Judge, on March 6, 2012, to a 12-month term of probation under the standard conditions adopted by the court and the following additional conditions:

1. The defendant shall abstain from the use of any alcoholic beverages, shall not associate with individuals consuming alcoholic beverages, shall not frequent business establishments whose primary product to the consumer is alcoholic beverages, and shall not use any medication containing alcohol without the permission of the probation office or a prescription from a licensed physician.
2. The defendant shall be confined in the custody of the Bureau of Prisons for a period of 60 days as arranged by the probation office, and shall abide by all rules and regulations of the designated facility. Arrangements as to when and where the 60 days should be served shall be made through the U.S. Probation Office.
3. The defendant shall obtain a substance abuse assessment from an appropriate mental health facility within thirty (30) days from the date of this judgment and complete any prescribed treatment program. The defendant must pay the assessment fee and any added treatment fees that may be charged by the facility.
4. It is further ordered that the defendant shall participate in any other Alcohol/Drug Rehabilitation and Education program as directed by the U.S. Probation Office.
5. The defendant shall not operate a motor vehicle on the highways of the State of North Carolina until his privilege to do so is restored in accordance with law.

**RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS:** As a condition of the defendant's probation, he is required to serve 60 days in jail. A designation was made through the Bureau of Prisons for the defendant to serve weekends at the Cumberland County Jail beginning April 13, 2012. The defendant reported to the jail as required and on April 15, 2012, prior to his release, he was the victim of an assault at the jail. According to witnesses and the defendant, the assault was unprovoked and the defendant did not

attempt to defend himself. He was transported to the V.A. Medical Center by the Cumberland County Sheriff's Office to seek medical treatment. He sustained what appeared to be significant injuries to his face and head. Barton reported the incident to the probation officer and inquired into an alternative to jail given his mental health issues for which he takes medication. While incarcerated, the defendant is only allowed to take one of his prescribed medications. He was seen by his psychiatrist at the V.A. Medical Center who provided a letter indicating that Barton has been emotionally traumatized by the incident and given his significant mental health issues, has requested that Barton be allowed to serve his remaining jail time under house arrest or some other safe setting.

In an effort to ensure the safety of the community as well as the safety of the defendant, the probation officer is recommending that as an alternative to jail time, that the defendant be placed on home detention for a period of 90 days. Additionally, given his history of alcohol abuse, it is recommended that the defendant be subject to 90 days of Remote Alcohol Monitoring. This will ensure the defendant is maintaining his sobriety and will add an additional level of safety for the community. Given his mental health status and alcohol abuse history, conditions of mental health treatment and drug aftercare are also recommended.

The defendant signed a Waiver of Hearing agreeing to the proposed modification of supervision. The probation officer has consulted with the government, and they are not opposed to the modification.

**PRAYING THAT THE COURT WILL ORDER** that the remaining jail time be stricken and that probation be modified as follows:

1. The defendant shall participate as directed in a program approved by the probation office for the treatment of narcotic addiction, drug dependency, or alcohol dependency which will include urinalysis testing or other drug detection measures and may require residence or participation in a residential treatment facility.
2. The defendant shall participate in a program of mental health treatment, as directed by the probation office.
3. The defendant shall abide by all conditions and terms of the home detention program for a period not to exceed 90 consecutive days. The defendant shall be restricted to his residence at all times except for pre-approved and scheduled absences for employment, education, religious activities, treatment, attorney visits, court appearances, court obligations or other activities as approved by the probation officer. The defendant shall wear an electronic monitoring device and follow electronic monitoring procedures specified by the probation officer. The defendant shall pay for electronic monitoring services as directed by the probation officer.

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4. The defendant shall abide by all terms and conditions of the Remote Alcohol Monitoring Program, as directed by the probation officer, for a period not to exceed 90 consecutive days. The defendant shall comply with the program procedures and shall pay all costs associated with remote alcohol monitoring services.

Except as herein modified, the judgment shall remain in full force and effect.

Reviewed and approved,

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Robert L. Thornton  
Robert L. Thornton  
Supervising U.S. Probation Officer

/s/ Debbie W. Starling  
Debbie W. Starling  
U.S. Probation Officer  
310 Dick Street  
Fayetteville, NC 28301-5730  
Phone: (910) 483-8613  
Executed On: July 5, 2012

**ORDER OF COURT**

Considered and ordered this 6<sup>th</sup> day of July, 2012, and ordered filed and made a part of the records in the above case.

Robert B. Jones, Jr.  
Robert B. Jones, Jr.  
U.S. Magistrate Judge